

**COURT OF APPEALS
DECISION
DATED AND FILED**

DECEMBER 16, 1997

Marilyn L. Graves
Clerk, Court of Appeals
of Wisconsin

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

No. 97-1866-FT

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

IN RE THE MARRIAGE OF:

CLAUDIA C. KALOUS,

PETITIONER-RESPONDENT,

V.

RICHARD KALOUS,

RESPONDENT-APPELLANT.

APPEAL from an order of the circuit court for Brown County:
VIVI L. DILWEG, Judge. *Affirmed.*

Before Cane, P.J., Myse and Hoover, JJ.

PER CURIAM. Richard Kalous appeals a postjudgment order that extended the maintenance award of the divorce judgment for changed

circumstances.¹ On the parties' stipulation, the divorce judgment granted Claudia Kalous \$800 monthly maintenance for a four-year term, in part to help her pursue gainful education at vocational school. The postjudgment order extended the maintenance for a one-year term, at a reduced \$500 monthly rate, to help Claudia complete her education. She had left vocational school and was now pursuing a college education for the purpose of making herself more economically self-sufficient. The trial court had the power to alter stipulated maintenance for changed circumstances, provided the change was just and equitable. *See Fobes v. Fobes*, 124 Wis.2d 72, 80-81, 368 N.W.2d 642, 647 (1985). On appeal, Richard argues that the extension represents an erroneous exercise of discretion and that Claudia was shirking employment at his expense in favor of a more agreeable educational environment. We reject his arguments and affirm the postjudgment order.

The trial court made a discretionary decision, *Poindexter v. Poindexter*, 142 Wis.2d 517, 531, 419 N.W.2d 223, 229 (1988), and extended maintenance in a reasonable manner. First, the trial court extended the maintenance for a worthwhile endeavor to make Claudia economically self-sufficient. Claudia's educational effort was promising and already well toward completion, and we see no indication that she was shirking employment in favor of a more agreeable educational environment. Second, Claudia was experiencing health problems, which created a need for financial assistance. Third, the trial court found that Richard had the earning capacity to continue reduced payments for an additional one-year period. The finding was not clearly erroneous in view of Richard's annual gross wages of \$34,800. Fourth, the award was not excessive

¹ This is an expedited appeal under RULE 809.17, STATS.

by any measure. It extended maintenance by 25% in terms of the length of the original four-year maintenance award, and 6.9% in terms of the length of the 14.5-year marriage. It was also 37.5% lower than before. The reduced one-year \$6,000 award represented 17.2% of Richard's gross wages and only a 15.6% increase of the original four-year \$38,400 cumulative award. Under the circumstances, the trial court's maintenance extension was just and equitable, and we see no erroneous exercise of discretion.

By the Court.—Order affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)5, STATS.

